

PATENT

Attorney Docket No: AND-1001-DIV2

REMARKS

Claims 15 to 20 are presently pending in the application. By the present communication, claim 19 is newly amended. Accordingly, upon entry of this communication, claims 15 to 20 will be pending.

The Examiner issued a notice of noncompliance with present claims listing rules. Applicant now corrects the apparent defect with this communication and repeats the timely earlier response to the Office communication mailed December 8, 2008.

The Examiner has rejected claims 15 to 20 under 35 U.S.C. 102 B on the premise that claim 19 read on cited art, namely US patent 5,595,881. In order to expedite this case Applicant has amended claim 19 and reserves the right to seek further prosecution of unamended claim 19. Given the present amendment, the Examiner's rejection should now be moot as the '881 patent will no longer be relevant to the presently claimed invention. Applicant respectfully requests that the rejection be withdrawn.

The present amendment of claim 19 is in accordance with subject matter discussed in the telephonic interview held December 8, 2008.

The Examiner further rejected claims 15 to 20 under the judicially created obviousness-type double patenting with respect to US patent 6,787,154. Applicants strongly disagree with the Examiner's assessment as to this matter. The subject matter of the '154 patent concerns and claims a method of isolating antigenic T cells. In sharp contrast, the current invention is not a method but an article of manufacture. Further, Applicant has been informed, unofficially, by PTO training personnel visiting San Diego recently, that this double patenting rejection is improper as it is attempting to not only mix methods and devices, but also the criteria for arguing how the inventions are the same and same scope are not detailed by the Examiner. Further still, the present invention is a daughter application of the '154 patent and will have the same expiration date as the '154 patent regardless.

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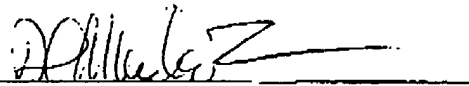
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In any event, Applicant respectfully requests that this double patenting rejection be withdrawn. None the less, in the event that the Examiner necessitates the filing of a Terminal disclaimer, Applicant will comply upon the allowance of the pending claims.

CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for immediate allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

Respectfully submitted,



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